

Heard Mr. Dutta, learned Sr. Counsel for the petitioner and Mr. Handique, learned State Counsel for the official respondents. The learned State Counsel submits that inspite of repeated endeavours he has not been posted with necessary instructions.

Having regard to the grievance made and the relief prayed for, I am not inclined to grant further time to the respondents. The petition is, therefore, disposed of at the admission stage.

The facts in brief necessary for the decision proposed are that the petitioner is a proprietorship firm engaged in the business of growing, manufacturing and marketing tea in the name and style of Beheating Tea Estate. It had obtained financial assistance of Rs. 1.20 crore (approximately) from the Indian Overseas Bank, Chowringhee Branch, Kolkata. Following an agreement between the petitioner and the Bank evolving a method for liquidation of the outstanding dues in a phased manner, the Bank issued a No Objection Certificate in favour of the petitioner to sell 114 Bighas 3 Kathas 7 Lechas of its land lying mortgaged with it (petitioner) to secure the loan. Pursuant thereto, in the month of March, 2006, the petitioner took necessary steps for selling 18 Bighas 3 Kathas 7 Lechas thereof. The transaction could materialize. From the sale proceeds of the said land, the outstanding dues of the petitioner were liquidated to some extent.

With the same end in view, the petitioner decided to sell further 23 Bighas 3 Kathas 4 Lechas of land. Accordingly it submitted a representation on 12/10/2003 before the appropriate authorities of the State Government seeking necessary permission to effectuate the proposed sale. A report thereon was called for and eventually the jurisdictional Deputy Commissioner by his communication dated 19/1/2006 submitted the same. By the impugned order dated 15/2/2007, the permission has been declined on the ground that the report submitted was not convincing.

Mr. Dutta with reference to the letter dated 31/7/1998 of the Commissioner and Secretary to the Government of Assam, Revenue (Settlement) Department, containing the norms to be complied with for being entitled to the permission for sale of grant/tea periodic patta land has submitted that as the petitioner's land proposed to be sold meets the same, the impugned decision is per se illegal and arbitrary and is liable to be adjudged null and void. As the refusal to grant permission to the petitioner to sell its land is without any justification whatsoever, according to him, it is a fit case where a writ of mandamus ought to be issued directing the respondent authorities to sanction the same.

The learned State Counsel submitted that he is without instructions.

Upon hearing the learned Counsels for the parties and on a consideration of the pleaded facts and the documents annexed to the petition more particularly the letter dated 31/7/1999 referred to above, I am of the view that it would meet the ends of justice if the petition is closed with the following directions:-

(a) The Deputy Commissioner, Dibrugarh, would again examine the petitioner's proposal for the sale of 23 Bighas 3 Kathas 4 Lechas of the petitioner's land under Grant No. 13/176 O.R.R. (Old) of Mankatta Khanikar Mouza, village Dainijan, District-Dibrugarh, in terms of the criteria contained in the letter dated 31/7/1998 and submit a report to the Principal Secretary to the Government of Assam, Revenue Department, Guwahati, by 31/3/2007. The outer limit of time as above is in view of the insistence on the part of the Bank in this regard.

(b) On receipt of such report, the Principal Secretary to the Government of Assam, would take an appropriate decision on the issue. Needless to say, any decision to be taken has to be in strict adherence to the guidelines in the letter dated 31/7/1998 referred to above. As the petitioner is hard pressed for liquidating its outstanding dues and the Bank has fixed time therefor within 31/3/2007, the process as indicated hereinabove should be completed by then.

(c) The petitioner would deposit the sale proceeds with the Bank in the relevant account without delay.

No costs.